

AMENDED IN SENATE AUGUST 21, 2012

AMENDED IN SENATE AUGUST 6, 2012

AMENDED IN ASSEMBLY APRIL 30, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2364

Introduced by Assembly Member Wagner

February 24, 2012

An act to amend Sections 482.070, 488.455, 488.460, 488.600, 488.610, 684.110, 700.140, 700.150, 700.160, 701.030, and 703.570 of, and to add Section 684.115 to, the Code of Civil Procedure, to amend Sections 1450 and 1620 of the Financial Code, and to amend Sections 1755 and 1755.1 of the Unemployment Insurance Code, relating to civil procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 2364, as amended, Wagner. Civil procedure: attachment.

Existing law establishes procedures for service of various legal processes on financial institutions, and procedures for attachment and execution of levies served on financial institutions. Existing law requires service in connection with a levy to be made upon the branch or at the office that has actual possession of the property levied upon, or where the deposit account levied upon is carried, as specified.

This bill would instead require a financial institution that has more than 9 branch offices in California to designate one or more central locations for service of legal process within the state, and would authorize a financial institution with fewer than 9 branch offices in California to do the same. The bill would establish procedures for service of process and execution of levies at a financial institution's central

locations and other branches. The bill would require financial institutions designating central locations to file a notice of the designation with the Department of Financial Institutions. The bill would require the department to update its online records to reflect the designation, and would require the department to provide a copy of the current notice to any person upon request, as specified. The bill would establish procedures for a judgment creditor to engage in a levy action against a specific deposit account or safe deposit box at a financial institution, including by filing a written request with the financial institution for enforcement against the account or safe deposit box. The bill would require the request to contain specified information.

The bill would require a levying officer to give at least 3 days' notice to the judgment creditor regarding opening and seizing the contents of a safe deposit box pursuant to these provisions, as specified.

The bill would make additional conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 482.070 of the Code of Civil Procedure
2 is amended to read:

3 482.070. (a) (1) Except as otherwise provided in this title,
4 legal process required or permitted to be served under this title
5 may be served personally or by mail.

6 (2) For purposes of this title, the term “legal process” shall refer
7 to each and all of the writs, notices, orders, or other papers required
8 *or permitted* to be served pursuant to this title.

9 (b) Except as otherwise provided in this section, service of legal
10 process under this title is governed by Article 1 (commencing with
11 Section 684.010) and Article 2 (commencing with Section 684.110)
12 of Chapter 4 of Division 1 of Title 9, including the provisions of
13 Section 684.120 extending time when service is made by mail.

14 (c) For the purpose of subdivision (b), in Article 1 (commencing
15 with Section 684.010) and Article 2 (commencing with Section
16 684.110) of Chapter 4 of Division 1 of Title 9:

17 (1) References to the “judgment debtor” shall be deemed
18 references to the defendant.

19 (2) References to the “judgment creditor” shall be deemed
20 references to the plaintiff.

1 (3) References to a “writ” shall be deemed references to a writ
2 of attachment.

3 (4) References to a “notice of levy” shall be deemed references
4 to a notice of attachment.

5 (d) If the defendant has not appeared in the action and legal
6 process is required to be personally served on the defendant under
7 this title, service shall be made in the same manner as a summons
8 is served under Chapter 4 (commencing with Section 413.10) of
9 Title 5.

10 (e) Except for service of a subpoena or other process to require
11 the attendance of the defendant or service of a paper to bring the
12 defendant into contempt, if the defendant has an attorney of record
13 in the action, service shall be made on the attorney rather than on
14 the defendant.

15 (f) Proof of service under this title is governed by Article 3
16 (commencing with Section 684.210) of Chapter 4 of Division 1
17 of Title 9.

18 SEC. 2. Section 488.455 of the Code of Civil Procedure is
19 amended to read:

20 488.455. (a) Subject to Sections 488.465 and 684.115, to attach
21 a deposit account, the levying officer shall personally serve a copy
22 of the writ of attachment and a notice of ~~levy~~ *attachment* on the
23 financial institution with which the deposit account is maintained.

24 (b) The attachment lien that arises upon service of a writ of
25 attachment and notice of ~~levy~~ *attachment* reaches only amounts
26 in a deposit account at the time of service on the financial
27 institution, including the amount of any deposit not yet finally
28 collected, unless the deposit is returned unpaid to the financial
29 institution.

30 (c) The levying officer shall serve a copy of the writ of
31 attachment and a notice of ~~levy~~ *attachment* on any third person in
32 whose name any deposit account described therein stands. That
33 service shall be made personally or by mail as follows:

34 (1) At the time of levy or promptly thereafter, if the party
35 seeking the levy informs the levying officer of that person and his,
36 her, or its residence or business address.

37 (2) Promptly following the levying officer’s receipt of a
38 garnishee’s memorandum if service was not accomplished pursuant
39 to paragraph (1), if the garnishee’s memorandum identifies that
40 person and his, her, or its residence or business address.

(d) The financial institution shall not honor a withdrawal request or a check or other order for the payment of money from the deposit account if presentation of that withdrawal request or item to the financial institution occurs during the time the attachment lien is in effect unless, following that withdrawal or payment, sufficient funds are available to cover the levy. For these purposes, a withdrawal from the deposit account to cover the financial institution's standard fee or charge for processing the levy shall not be considered a payment of money from the account in violation of this subdivision.

(e) During the time the attachment lien is in effect, the financial institution is not liable to any person for any of the following:

(1) Performance of the duties of a garnishee under the levy.

(2) Nonpayment of a check or other order for the payment or transfer of money drawn or presented against the deposit account if the nonpayment is pursuant to the requirements of subdivision (d).

(3) Refusal to pay a withdrawal from the deposit account if the refusal is pursuant to the requirements of subdivision (d).

(f) For the purposes of this section, none of the following is a third person in whose name the deposit account stands:

(1) A person who is only a person named as the beneficiary of a Totten trust account.

(2) A person who is only a payee designated in a pay-on-death provision in an account pursuant to Section 18318.5 of the Financial Code or Section 5140 of the Probate Code, or other similar provision.

(3) A person who is only acting in a representative or custodial capacity with respect to benefits paid or payable by the United States government. Rather, accounts maintained by the representative or custodian shall be deemed to stand in that beneficiary's name, and the amounts therein shall be covered by a levy against that beneficiary.

(g) For purposes of this section, final payment of a deposit shall be deemed to have occurred in accordance with Section 4215 or 11210 of the Commercial Code or with automated clearinghouse or Federal Reserve System rule, regulation, operating circular, or similar governing document, as applicable to the deposit. If, for any reason, a deposit is returned by the financial institution upon which it is drawn, that deposit shall not be deemed finally collected

1 for purposes of this subdivision regardless of any later payment
2 by the financial institution upon which the deposit is drawn.

3 (h) When a deposit account has been attached, as an alternative
4 to paying the amount of the deposit account that is attached to the
5 levying officer as required by Section 488.600, the financial
6 institution may continue to hold the deposit account until the
7 deposit account is levied upon after judgment in the action or is
8 earlier released, the deposit account to be held in one of the
9 following manners:

10 (1) If the entire deposit account is attached, the financial
11 institution may hold the deposit account on the terms applicable
12 before the attachment, subject to the requirements of subdivision
13 (d).

14 (2) If less than the entire deposit account is attached:

15 (A) With the consent of the defendant, and any third person in
16 whose name the deposit account stands, the financial institution
17 may hold in the deposit account on the same terms an amount
18 larger than the attached amount as necessary to avoid a penalty or
19 a reduction of the rate of interest.

20 (B) If the defendant, and any third person in whose name the
21 deposit account stands, do not consent as provided in subparagraph
22 (A), the financial institution may hold the attached amount on the
23 same terms affecting the deposit account before the attachment,
24 subject to the requirements of subdivision (d).

25 (3) The financial institution may hold the attached deposit
26 account in any other manner agreed upon by the plaintiff, the
27 defendant, and any third person in whose name the deposit account
28 stands.

29 (i) Subdivision (h) does not prevent a financial institution that
30 is holding an attached deposit account as provided in subdivision
31 (h) from paying the attached amount to the levying officer before
32 the time the financial institution otherwise is required to pay the
33 amount under subdivision (h).

34 SEC. 3. Section 488.460 of the Code of Civil Procedure is
35 amended to read:

36 488.460. (a) Subject to ~~Section~~ *Sections 488.465 and 684.115*,
37 to attach property in a safe-deposit box, the levying officer shall
38 personally serve a copy of the writ of attachment and a notice of
39 attachment on the financial institution with which the safe-deposit
40 box is maintained.

1 (b) At the time of levy or promptly thereafter, the levying officer
2 shall serve a copy of the writ of attachment and a notice of
3 attachment on any third person in whose name the safe-deposit
4 box stands.

5 (c) During the time the attachment lien is in effect, the financial
6 institution may not permit the removal of any of the contents of
7 the safe-deposit box except as directed by the levying officer.

8 (d) Upon receipt of a garnishee's memorandum from the
9 financial institution, as required by Section 488.610, indicating a
10 safe-deposit box is under levy, the levying officer shall promptly
11 mail a written notice to the judgment creditor demanding an
12 additional fee as required by Section 26723 of the Government
13 Code, plus the costs to open the safe-deposit box and seize and
14 store the contents. The levying officer shall release the levy on the
15 safe-deposit box if the plaintiff does not pay the required fee, plus
16 costs, within three business days plus the extended time period
17 specified in subdivision (a) of Section 1013 for service by mail by
18 the levying officer.

19 (e) The levying officer may first give the person in whose name
20 the safe-deposit box stands an opportunity to open the safe-deposit
21 box to permit the removal pursuant to the attachment of the
22 attached property. The financial institution may refuse to permit
23 the forcible opening of the safe-deposit box to permit the removal
24 of the attached property unless the plaintiff or levying officer pays
25 in advance the cost of forcibly opening the safe-deposit box and
26 of repairing any damage caused thereby.

27 (f) During the time the attachment lien is in effect, the financial
28 institution is not liable to any person for any of the following:

29 (1) Performance of the duties of a garnishee under the
30 attachment.

31 (2) Refusal to permit access to the safe-deposit box by the person
32 in whose name it stands.

33 (3) Removal of any of the contents of the safe-deposit box
34 pursuant to the attachment.

35 (g) If the levying officer removes any property from the
36 safe-deposit box to satisfy the levy, but allows other property to
37 remain in the safe-deposit box, the attachment lien is released
38 automatically with respect to any property that remains in the
39 safe-deposit box.

SEC. 4. Section 488.600 of the Code of Civil Procedure is amended to read:

488.600. (a) Sections 701.010, ~~701.015~~, 701.020, 701.040, 701.050, 701.060, and 701.070 prescribe duties and liabilities of a third person under a levy made under this title.

(b) For the purposes of this section, references in Sections 701.010, ~~701.015~~, 701.020, 701.040, 701.050, and 701.060 to:

(1) “Amount required to satisfy the judgment” shall be deemed references to the amount required to satisfy the amount to be secured by the attachment.

(2) “Execution lien” or “lien” shall be deemed references to the attachment lien.

(3) “Judgment creditor” shall be deemed references to the plaintiff.

(4) “Judgment debtor” shall be deemed references to the defendant.

(5) “Levy” shall be deemed references to levy of attachment.

(6) “Notice of levy” shall be deemed references to notice of attachment.

(7) “Release” of property shall be deemed references to release of property pursuant to this title.

(8) “Satisfaction or discharge of the judgment” shall be deemed references to the satisfaction or termination of the attachment.

(9) “Writ” or “writ of execution” shall be deemed references to a writ of attachment.

(c) For the purposes of this section, references in Section 701.070 to:

(1) “Levy” shall be deemed references to levy of attachment.

(2) “Notice of the levy” shall be deemed references to notice of attachment.

SEC. 5. Section 488.610 of the Code of Civil Procedure is amended to read:

488.610. (a) At the time of service of a copy of the writ of attachment and a notice of attachment on a third person, the levying officer shall request the third person to give the levying officer a garnishee’s memorandum containing the information required by this section. Within 10 days after the request is made, the third person shall mail or deliver the garnishee’s memorandum to the levying officer whether or not the levy is effective.

(b) The garnishee's memorandum shall be executed under oath and shall contain the following information:

(1) A description of any property of the defendant sought to be attached that is not delivered to the levying officer and the reason for not delivering the property.

(2) A statement of the amount and terms of any obligation to the defendant sought to be attached that is due and payable and is not paid to the levying officer and the reason for not paying the obligation.

(3) A statement of the amount and terms of any obligation to the defendant sought to be attached that is not due and payable at the time of levy.

(4) A description of claims and rights of other persons to the attached property or obligation that are known to the third person and the names and addresses of those other persons.

(5) A statement that the garnishee holds neither any property nor any obligations in favor of the judgment debtor.

~~(6) Any information required to be included pursuant to paragraph (1) of subdivision (b) of Section 701.015.~~

(c) If a garnishee's memorandum is received from the third person, the levying officer shall promptly mail or deliver a copy of the memorandum to the plaintiff and attach the original to the writ when it is returned to the court. If a garnishee's memorandum is not received from the third person, the levying officer shall so state in the return.

(d) Except as provided in subdivisions (e) and (f), if a third person does not give the levying officer a garnishee's memorandum within the time provided in subdivision (a) or does not provide complete information, the third person may, in the court's discretion, be required to pay the costs and reasonable attorney's fees incurred in any proceedings to obtain the information required in the garnishee's memorandum.

(e) Notwithstanding subdivision (a), where a deposit account or property in a safe-deposit box is attached, the financial institution need not give a garnishee's memorandum to the levying officer if the financial institution fully complies with the levy and, if a garnishee's memorandum is required, the garnishee's memorandum need provide information with respect only to property which is carried on the records available at the office or branch where the levy is made, unless the levy has been served at

1 a central location designated by a financial institution in accordance
2 with Section 684.115, in which case the garnishee's memorandum
3 shall apply to all offices and branches of the financial institution
4 except to the extent acceptance of the levy at that central location
5 is limited pursuant to paragraph (3) of subdivision (a) of Section
6 684.115.

7 (f) Notwithstanding subdivision (a), the third person need not
8 give a garnishee's memorandum to the levying officer if both of
9 the following conditions are satisfied:

10 (1) The third person has delivered to the levying officer all of
11 the property sought to be attached.

12 (2) The third person has paid to the levying officer the amount
13 due at the time of levy on any obligation to the defendant that was
14 attached and there is no additional amount that thereafter will
15 become payable on the obligation levied upon.

16 SEC. 6. Section 684.110 of the Code of Civil Procedure is
17 amended to read:

18 684.110. (a) (1) Subject to subdivisions (b), (c), and (d), if
19 legal process is required to be personally served under this title,
20 service shall be made in the same manner as a summons is served
21 under Chapter 4 (commencing with Section 413.10) of Title 5.

22 (2) For purposes of this title, the term "legal process" shall refer
23 to each and all of the writs, notices, orders, or other papers required
24 or permitted to be served pursuant to this title.

25 (b) If the legal process is required to be personally served under
26 this title and service on an attorney is required under Article 1
27 (commencing with Section 684.010), service shall be made on the
28 attorney in the manner provided in Section 684.040.

29 (c) If the legal process is required to be personally served on
30 (1) a financial institution in connection with a deposit account or
31 with property held for safekeeping, as collateral for an obligation
32 owed to the financial institution or in a safe-deposit box, (2) a title
33 insurer (as defined in Section 12340.4 of the Insurance Code) or
34 underwritten title company (as defined in Section 12340.5 of the
35 Insurance Code), or (3) an industrial loan company (as defined in
36 Section 18003 of the Financial Code), service shall be made at the
37 office or branch that has actual possession of the property levied
38 upon or at which a deposit account levied upon is carried and shall
39 be made upon the officer, manager, or other person in charge of
40 the office or branch at the time of service. For purposes of this

1 section, the office or branch at which a deposit account levied upon
2 is carried shall mean the branch, office, or other location where
3 the financial institution maintains the account.

4 (d) Notwithstanding subdivision (c), with respect to legal process
5 served on a financial institution, if the financial institution has
6 designated a central location for service of legal process pursuant
7 to Section 684.115, unless the financial institution elects to treat
8 legal process served at a branch or office as effective, that legal
9 process so served on the branch or office will not reach those
10 accounts or property and need not be reported on the financial
11 institution's garnishee memorandum.

12 (e) Notwithstanding subdivision (c), a financial institution, title
13 insurer, or industrial loan company, in its discretion and without
14 violating any obligation to its customer, may act upon service of
15 legal process at any of its offices or branches, whether or not the
16 office or branch is the location wherein accounts or property that
17 may be reached by the process is or are maintained or located.

18 SEC. 7. Section 684.115 is added to the Code of Civil
19 Procedure, to read:

20 684.115. (a) A financial institution may, and if it has more
21 than nine branches or offices at which it conducts its business
22 within this state, shall, designate one or more central locations for
23 service of legal process within this state. Each designated location
24 shall be referred to as a "central location." If a financial institution
25 elects or is required to designate a central location for service of
26 legal process, the financial institution shall file a notice of its
27 designation with the Department of Financial Institutions, which
28 filing shall be effective upon filing and shall contain all of the
29 following:

30 (1) The physical address of the central location.

31 (2) The days and hours during which service will be accepted
32 at the central location.

33 (3) If the central location will not accept service of legal process
34 directed at deposit accounts maintained or property held at all of
35 the financial institution's branches or offices within this state, or
36 if the service accepted at the central location will not apply to
37 safe-deposit boxes or other property of the judgment debtor held
38 by or for the judgment debtor, the filing shall also contain sufficient
39 information to permit a determination of the limitation or
40 limitations, including, in the case of a limitation applicable to

1 certain branches or offices, an identification of the branches or
2 offices as to which service at the central location will not apply
3 and the nature of the limitation applicable to those branches or
4 offices. If the limitation will apply to all branches or offices of the
5 financial institution within this state, the filing may indicate the
6 nature of the limitation and that it applies to all branches or offices,
7 in lieu of an identification of branches or offices as to which the
8 limitation applies. To the extent that a financial institution's
9 designation of a central location for service of legal process covers
10 the process directed at deposit accounts, safe-deposit boxes, or
11 other property of the judgment debtor held by or for the judgment
12 debtor at a particular branch or office located within this state, the
13 branch or office shall be a branch or office covered by central
14 process.

15 (b) Should a financial institution required to designate a central
16 location fail to do so, each branch of that institution located in this
17 state shall be deemed to be a central location at which service of
18 legal process may be made, and all of the institution's branches
19 or offices located within this state shall be deemed to be a branch
20 or office covered by central process.

21 (c) Subject to any limitation noted pursuant to paragraph (3) of
22 subdivision (a), service of legal process at a central location of a
23 financial institution shall be effective against all deposit accounts
24 and all property held for safekeeping, as collateral for an obligation
25 owed to the financial institution or in a safe-deposit box if the same
26 is described in the legal process and held by the financial institution
27 at any branch or office covered by central process and located
28 within this state. However, while service of legal process at the
29 central location will establish a lien on all property, if any property
30 other than deposit accounts is physically held by the financial
31 institution in a county other than that in which the designated
32 central location is located, the financial institution shall include in
33 its garnishee's memorandum the location or locations of the
34 property, and the judgment creditor shall obtain a writ of execution
35 covering the property and directed to the levying officer in that
36 county to accomplish the turnover of the property and shall forward
37 the writ and related required documentation to the levying officer
38 in the county in which the property is held.

39 (d) A financial institution may modify or revoke any designation
40 made pursuant to subdivision (a) by filing the modification or

1 revocation with the Department of Financial Institutions. The
2 modification or revocation shall be effective when the Department
3 of Financial Institutions' records have been updated to reflect the
4 modification or revocation, provided that the judgment creditor
5 may rely upon the superseded designation during the 30-day period
6 following the effective date of the revocation or modification.

7 (e) (1) The Department of Financial Institutions shall update its
8 online records to reflect a filing by a financial institution pursuant
9 to subdivision (a) or a modification or revocation filed by a
10 financial institution pursuant to subdivision (d) within 10 business
11 days following the filing by the financial institution. The
12 Department of Financial Institutions' Internet Web site shall reflect
13 the date its online records for each financial institution have most
14 recently been updated.

15 (2) The Department of Financial Institutions shall provide any
16 person requesting it with a copy of each current filing made by a
17 financial institution pursuant to subdivision (a). The Department
18 of Financial Institutions may satisfy its obligation under this
19 subdivision by posting all current designations of a financial
20 institution, or the pertinent information therein, on an Internet Web
21 site available to the public without charge, and if that information
22 is made available, the Department of Financial Institutions may
23 impose a reasonable fee for furnishing that information in any
24 other manner.

25 (f) As to deposit accounts maintained or property held for
26 safekeeping, as collateral for an obligation owed to the financial
27 institution or in a safe-deposit box at a branch or office covered
28 by central process, service of legal process at any location other
29 than a central location designated by the financial institution shall
30 not be effective unless the financial institution, in its absolute
31 discretion, elects to act upon the process at that location as if it
32 were effective. In the absence of an election, the financial
33 institution may respond to the legal process by mailing or delivery
34 of the garnishee's memorandum to the levying officer within the
35 time otherwise provided therefor, with a statement on the
36 garnishee's memorandum that the legal process was not properly
37 served at the financial institution's designated location for receiving
38 legal process, and, therefor, was not processed, and the address at
39 which the financial institution is to receive legal process.

1 (g) If any legal process is served at a central location of a
2 financial institution pursuant to this section, all related papers to
3 be served on the financial institution shall be served at that location,
4 unless agreed to the contrary between the serving party and the
5 financial institution.

6 (h) This subdivision shall apply whenever a financial institution
7 operates within this state at least one branch or office in addition
8 to its head office or main office, as applicable, or a financial
9 institution headquartered in another state operates more than one
10 branch or office within this state, and no central location has been
11 designated or deemed to have been designated by the institution
12 for service of legal process relating to deposit accounts maintained
13 at the financial institution's head office or main office, as
14 applicable, and branches located within this state. If a judgment
15 creditor reasonably believes that, pursuant to Section 700.140 and,
16 if applicable, Section 700.160, any act of enforcement would be
17 effective against a specific deposit account maintained at a financial
18 institution described in this subdivision, the judgment creditor may
19 file with the financial institution a written request that the financial
20 institution identify the branch or office within this state at which
21 a specified account might be maintained by the financial institution.
22 The written request shall contain the following statements or
23 information:

24 (1) The name of the person reasonably believed by the judgment
25 creditor to be a person in whose name the specified deposit account
26 stands.

27 (2) If the name of the person reasonably believed by the
28 judgment creditor to be a person in whose name the specified
29 deposit account stands is not a judgment debtor identified in the
30 writ of execution, a statement that a person reasonably believed
31 by the judgment creditor to be a person in whose name the specified
32 deposit account stands will be appropriately identified in the legal
33 process to be served pursuant to Section 700.160, including any
34 supplementary papers, such as a court order or affidavit if the same
35 will be required by Section 700.160.

36 (3) The specific identifying number of the account reasonably
37 believed to be maintained with the financial institution and standing
38 in the name of the judgment debtor or other person.

39 (4) The address of the requesting party.

1 (5) An affidavit by the judgment creditor or the judgment
2 creditor's counsel stating substantially the following:

3
4 I hereby declare that this deposit account location request
5 complies with Section 684.115 of the Code of Civil Procedure,
6 that the account or accounts of the judgment debtor or other person
7 or persons appropriately identified in the legal process and
8 specified herein are subject to a valid writ of execution, or court
9 order, that I have a reasonable belief, formed after an inquiry
10 reasonable under the circumstances, that the financial institution
11 receiving this deposit account location request has an account
12 standing in the name of the judgment debtor or other person or
13 persons appropriately identified in the legal process, and that
14 information pertaining to the location of the account will assist the
15 judgment creditor in enforcing the judgment.

16
17 (i) The affidavit contemplated by subdivision (h) shall be signed
18 by the judgment creditor or the judgment creditor's counsel and
19 filed at the financial institution's head office located within this
20 state or, if the financial institution's head office is in another state,
21 at one of its branches or offices within this state. Failure to comply
22 with the requirements of subdivision (h) and this subdivision shall
23 be sufficient basis for the financial institution to refuse to produce
24 the information that would otherwise be required by subdivision
25 (j).

26 (j) Within 10 banking days following receipt by a financial
27 institution at the applicable location specified in subdivision (i) of
28 a request contemplated by subdivision (h), as to each specific
29 deposit account identified in the request contemplated by
30 subdivision (h), the financial institution shall respond by mailing,
31 by first-class mail with postage prepaid, to the requester's address
32 as specified in the request a response indicating the branch or office
33 location of the financial institution at which the specified deposit
34 account might be maintained, or, if the specified deposit account,
35 if it exists, would not be maintained at a specific location, at least
36 one place within this state at which legal process relating to the
37 deposit account should or may be served. The response to be
38 furnished pursuant to this subdivision shall not require the financial
39 institution to determine whether an account exists or, if an account
40 does exist, whether it would be reached by the legal process, rather,

1 the branch or office location shall be determined and reported by
2 the financial institution based solely upon its determination that
3 an account with the identifying number provided by the requester
4 would be maintained at that branch if an account did exist, and the
5 response shall not contain any information about the name in which
6 the account stands or any other information concerning the account,
7 if it exists. If more than one account number is specified in the
8 request, the financial institution's responses as to some or all of
9 those account numbers may be combined in a single writing.

10 (k) A response furnished in good faith by the financial institution
11 pursuant to subdivision (j) shall not be deemed to violate the
12 privacy of any person in whose name the specified deposit account
13 stands nor the privacy of any other person, and shall not require
14 the consent of the person in whose name the account stands nor
15 that of any other person.

16 (l) A financial institution shall not notify the person in whose
17 name the specified deposit account stands or any other person
18 related to the specified account of the receipt of any request made
19 pursuant to subdivision (h) and affecting that person's or persons'
20 accounts at the financial institution, provided that the financial
21 institution shall have no liability for its failure to comply with the
22 provisions of this subdivision.

23 SEC. 8. Section 700.140 of the Code of Civil Procedure is
24 amended to read:

25 700.140. (a) Subject to Sections 684.115 and 700.160, to levy
26 upon a deposit account, the levying officer shall personally serve
27 a copy of the writ of execution and a notice of levy on the financial
28 institution with which the deposit account is maintained.

29 (b) The execution lien that arises upon service of a writ of
30 execution and notice of levy reaches only amounts in a deposit
31 account at the time of service on the financial institution, including
32 the amount of any deposit not yet finally collected unless the
33 deposit is returned unpaid to the financial institution.

34 (c) The levying officer shall serve a copy of the writ of execution
35 and a notice of levy on any third person in whose name any deposit
36 account described therein stands. Service shall be made personally
37 or by mail as follows:

38 (1) At the time of levy or promptly thereafter, if the party
39 seeking the levy informs the levying officer of the person and his,
40 her, or its residence or business address.

1 (2) Promptly following the levying officer's receipt of a
2 garnishee's memorandum if service was not accomplished pursuant
3 to paragraph (1) if the garnishee's memorandum identifies the
4 person and his, her, or its residence or business address.

5 (d) The financial institution shall not honor a withdrawal request
6 or a check or other order for the payment of money from the deposit
7 account if presentment of the withdrawal request or item to the
8 financial institution occurs during the time the execution lien is in
9 effect unless, following the withdrawal or payment, sufficient
10 funds are available to cover the levy. For these purposes, a
11 withdrawal from the deposit account to cover the financial
12 institution's standard fee or charge for processing the levy shall
13 not be considered a payment of money from the account in
14 violation of this subdivision.

15 (e) During the time the execution lien is in effect, the financial
16 institution is not liable to any person for any of the following:

17 (1) Performance of the duties of a garnishee under the levy.

18 (2) Nonpayment of a check or other order for the payment or
19 transfer of money drawn or presented against the deposit account
20 if the nonpayment is pursuant to the requirements of subdivision
21 (d).

22 (3) Refusal to pay a withdrawal from the deposit account if the
23 refusal is pursuant to the requirements of subdivision (d).

24 (f) When the amount levied upon pursuant to this section is paid
25 to the levying officer, the execution lien on the deposit account
26 levied upon terminates.

27 (g) For the purposes of this section, none of the following is a
28 third person in whose name the deposit account stands:

29 (1) A person who is only a person named as the beneficiary of
30 a Totten trust account.

31 (2) A person who is only a payee designated in a pay-on-death
32 provision in an account pursuant to Section 18318.5 of the
33 Financial Code or Section 5140 of the Probate Code, or other
34 similar provision.

35 (3) A person who is only acting in a representative or custodial
36 capacity with respect to benefits paid or payable by the United
37 States government. Rather, accounts maintained by the
38 representative or custodian shall be deemed to stand in the
39 beneficiary's name, and the amounts therein shall be covered by
40 a levy against the beneficiary.

(h) For purposes of this section, final payment of a deposit shall be deemed to have occurred in accordance with Section 4215 or 11210 of the Commercial Code or with automated clearinghouse or Federal Reserve System rule, regulation, operating circular, or similar governing document, as applicable to the deposit. If, for any reason, a deposit is returned by the financial institution upon which it is drawn, the deposit shall not be deemed finally collected for purposes of this subdivision regardless of any later payment by the financial institution upon which the deposit is drawn.

SEC. 9. Section 700.150 of the Code of Civil Procedure is amended to read:

700.150. (a) Subject to Section 700.160, to levy upon property in a safe-deposit box, the levying officer shall personally serve a copy of the writ of execution and a notice of levy on the financial institution with which the safe-deposit box is maintained.

(b) At the time of the levy or promptly thereafter, the levying officer shall serve a copy of the writ of execution and a notice of levy on any third person in whose name the safe-deposit box stands. Service shall be made personally or by mail.

(c) During the time the execution lien is in effect, the financial institution may not permit the removal of any of the contents of the safe-deposit box except as directed by the levying officer.

(d) Upon receipt of a garnishee's memorandum from the financial institution indicating a safe-deposit box is under levy, the levying officer shall promptly mail a written notice to the judgment creditor demanding an additional fee as required by Section 26723 of the Government Code, plus the costs to open the safe-deposit box and seize and store the contents. The levying officer shall release the levy on the safe-deposit box if the judgment creditor does not pay the required fee, plus costs, within three business days plus the extended time period specified in subdivision (a) of Section 1013 for service by mail by the levying officer.

(e) The levying officer may first give the person in whose name the safe-deposit box stands an opportunity to open the safe-deposit box to permit the removal pursuant to the levy of the property levied upon. The financial institution may refuse to permit the forcible opening of the safe-deposit box to permit the removal of the property levied upon unless the levying officer or the judgment

1 creditor pays in advance the cost of forcibly opening the
2 safe-deposit box and of repairing any damage caused thereby.

3 (f) The levying officer shall give the judgment creditor at least
4 three court days' advance notice of the date and time the levying
5 officer will open the safe-deposit box and seize the contents thereof,
6 and the judgment creditor shall be entitled to be present at that
7 time.

8 (g) During the time the execution lien is in effect, the financial
9 institution is not liable to any person for any of the following:

10 (1) Performance of the duties of a garnishee under the levy.

11 (2) Refusal to permit access to the safe-deposit box by the person
12 in whose name it stands.

13 (3) Removal of any of the contents of the safe-deposit box
14 pursuant to the levy.

15 (h) If the levying officer removes any property from the
16 safe-deposit box to satisfy the levy, but allows other property to
17 remain in the safe-deposit box, the execution lien is released
18 automatically with respect to any property that remains in the
19 safe-deposit box.

20 SEC. 10. Section 700.160 of the Code of Civil Procedure is
21 amended to read:

22 700.160. (a) Except as provided in subdivision (b), a deposit
23 account or safe-deposit box standing in the name of a person other
24 than the judgment debtor, either alone or together with third
25 persons, is not subject to levy under Section 700.140 or 700.150
26 unless the legal process served on the third party includes a court
27 order authorizing the levy.

28 (b) A court order is not required to levy on a deposit account
29 or safe-deposit box standing in the name of any of the following:

30 (1) The judgment debtor, whether alone or together with third
31 persons.

32 (2) The judgment debtor's spouse or registered domestic partner,
33 whether alone or together with other persons, provided an affidavit
34 is delivered to the financial institution at the time of levy showing
35 that person is the judgment debtor's spouse or registered domestic
36 partner.

37 (3) A fictitious business name, provided a copy of an unexpired
38 statement certified in accordance with Section 17926 of the
39 Business and Professions Code is delivered to the financial
40 institution at the time of levy, the fictitious business name statement

1 does not list any person other than the judgment debtor, the
2 judgment debtor's spouse or the judgment debtor's registered
3 domestic partner as the person or persons doing business under
4 the fictitious business name, and, if a person other than the
5 judgment debtor is listed in the statement, an affidavit stating that
6 the other person is the judgment debtor's spouse or registered
7 domestic partner is delivered to the financial institution at the time
8 of the levy.

9 (4) The additional name of a judgment debtor listed on the legal
10 process pursuant to an affidavit of identity as provided by Section
11 680.135, whether alone or together with third persons.

12 (c) In any case where a deposit account in the name of a person
13 other than the judgment debtor, whether alone or together with the
14 judgment debtor, is levied upon, the financial institution shall not
15 pay to the levying officer the amount levied upon until being
16 notified to do so by the levying officer. The levying officer may
17 not require the financial institution to pay the amount levied upon
18 until the expiration of 15 days after service of notice of levy on
19 the third person.

20 SEC. 11. Section 701.030 of the Code of Civil Procedure is
21 amended to read:

22 701.030. (a) At the time of service of a copy of the legal
23 process on a third person, the levying officer shall request the third
24 person to give the levying officer a garnishee's memorandum
25 containing the information required by this section. Within 10 days
26 after the legal process is served, the third person shall mail or
27 deliver the garnishee's memorandum to the levying officer whether
28 or not the levy is effective.

29 (b) The garnishee's memorandum shall be executed under oath
30 and shall contain the following information, as applicable:

31 (1) A description of any property of the judgment debtor sought
32 to be levied upon that is not delivered to the levying officer and
33 the reason for not delivering the property.

34 (2) A description of any property of the judgment debtor not
35 sought to be levied upon that is in the possession or under the
36 control of the third person at the time of levy.

37 (3) A statement of the amount and terms of any obligation to
38 the judgment debtor sought to be levied upon that is due and
39 payable and is not paid to the levying officer, and the reason for
40 not paying the obligation.

1 (4) A statement of the amount and terms of any obligation to
2 the judgment debtor sought to be levied upon that is not due and
3 payable at the time of levy.

4 (5) A statement of the amount and terms of any obligation to
5 the judgment debtor at the time of levy not sought to be levied
6 upon.

7 (6) A description of claims and rights of other persons to the
8 property or obligation levied upon that are known to the third
9 person and the names and addresses of those other persons.

10 (7) A statement that the garnishee holds neither any property
11 nor any obligations in favor of the judgment debtor.

12 ~~(8) Any information required to be included pursuant to~~
13 ~~paragraph (1) of subdivision (b) of Section 701.015.~~

14 (c) If a garnishee's memorandum is received from the third
15 person, the levying officer shall retain a copy and promptly mail
16 or deliver a copy of the memorandum to the judgment creditor.

17 (d) Except as provided in subdivisions (e) and (f), if a third
18 person does not give the levying officer a garnishee's memorandum
19 within the time provided in subdivision (a), or does not provide
20 complete information, the third person may, in the court's
21 discretion, be required to pay the costs and reasonable attorney's
22 fees incurred in any proceedings to obtain the information required
23 in the garnishee's memorandum.

24 (e) Notwithstanding subdivision (a), when the levy is made
25 upon a deposit account or upon property in a safe-deposit box, the
26 financial institution need not give a garnishee's memorandum to
27 the levying officer if the financial institution fully complies with
28 the levy and, if a garnishee's memorandum is required, the
29 garnishee's memorandum needs to provide information with
30 respect only to property that is carried on the records available at
31 the office or branch where the levy is made provided that if a levy
32 has been served at a central location designated by a financial
33 institution in accordance with Section 684.115, the garnishee's
34 memorandum shall apply to all offices and branches of the financial
35 institution except to the extent acceptance of the levy at those
36 central locations is limited pursuant to paragraph (3) of subdivision
37 (a) of Section 684.115.

38 (f) Notwithstanding subdivision (a), the third person need not
39 give a garnishee's memorandum to the levying officer if both of
40 the following conditions are satisfied:

1 (1) The third person has delivered to the levying officer all of
2 the property sought to be levied upon.

3 (2) The third person has paid to the levying officer the amount
4 due at the time of levy on any obligation to the judgment debtor
5 that was levied upon, and there is no additional amount that
6 thereafter will become payable on the obligation levied upon.

7 (g) The garnishee may electronically transmit the garnishee's
8 memorandum to the levying officer pursuant to Chapter 2
9 (commencing with Section 263) of Title 4 of Part 1.

10 SEC. 12. Section 703.570 of the Code of Civil Procedure is
11 amended to read:

12 703.570. (a) The hearing on the motion shall be held not later
13 than 30 days from the date the notice of motion was filed with the
14 court unless continued by the court for good cause.

15 (b) Not less than 10 days prior to the hearing, the judgment
16 creditor shall serve a notice of the hearing and a copy of the notice
17 of opposition to the claim of exemption on the claimant and on
18 the judgment debtor, if other than the claimant. Service shall be
19 made personally or by mail.

20 SEC. 13. Section 1450 of the Financial Code is amended to
21 read:

22 1450. Notice to any bank of an adverse claim (the person
23 making the adverse claim being hereafter called "adverse
24 claimant") to a deposit standing on its books to the credit of or to
25 personal property held for the account of any person shall be
26 disregarded, and the bank, notwithstanding the notice, shall honor
27 the checks, notes, or other instruments requiring payment of money
28 by or for the account of the person to whose credit the account
29 stands and on demand shall deliver that property to, or on the order
30 of, the person for whose account the property is held, without any
31 liability on the part of the bank; subject, however, to the exceptions
32 provided in subdivisions (a) and (b):

33 (a) If an adverse claimant delivers to the bank at the office at
34 which the deposit is carried or at which the property is held an
35 affidavit of the adverse claimant stating that of the adverse
36 claimant's own knowledge the person to whose credit the deposit
37 stands or for whose account the property is held is a fiduciary for
38 the adverse claimant and that the adverse claimant has reason to
39 believe the fiduciary is about to misappropriate the deposit or the
40 property, and stating the facts on which the claim of fiduciary

1 relationship and the belief are founded, the bank shall refuse
2 payment of the deposit and shall refuse to deliver the property for
3 a period of not more than three court days (including the day of
4 delivery) from the date that the bank received the adverse
5 claimant's affidavit, without liability on its part and without
6 liability for the sufficiency or truth of the facts alleged in the
7 affidavit.

8 (b) If at any time, either before, after, or in the absence of the
9 filing of an affidavit by the adverse claimant, the adverse claimant
10 procures and serves upon the bank at the office at which the deposit
11 is carried or at which the property is held a restraining order,
12 injunction, or other appropriate order against the bank from a court
13 of competent jurisdiction in an action in which the adverse claimant
14 and all persons in whose names the deposit stands or for whose
15 account the property is held are parties, the bank shall comply with
16 the order or injunction, without liability on its part.

17 (c) This section shall be applicable even though the name of the
18 person appearing on the bank's books to whose credit the deposit
19 stands or for whose account the property is held is modified by a
20 qualifying or descriptive term such as "agent," "trustee," or other
21 word or phrase indicating that the person may not be the owner in
22 his or her own right of the deposit or property.

23 (d) Nothing in the California Multiple-Party Accounts Law
24 contained in Part 2 (commencing with Section 5100) of Division
25 5 of the Probate Code limits the applicability of this section.

26 (e) For purposes of this section, the term "office at which the
27 deposit is carried" shall mean the branch, office, or other location
28 where the account containing the subject deposit is carried or
29 maintained.

30 (f) Notwithstanding subdivisions (a) and (b), if a central location
31 has been designated by the bank pursuant Section 684.115 of the
32 Code of Civil Procedure for service of legal process, as that term
33 is defined in Section 684.110 of the Code of Civil Procedure, the
34 adverse claimant shall serve a notice of adverse claim or related
35 affidavit, order, injunction, or other order contemplated herein at
36 the central location. If a central location has not but should have
37 been designated by the bank pursuant Section 684.115 of the Code
38 of Civil Procedure for service of legal process, as that term is
39 defined in Section 684.110 of the Code of Civil Procedure, the
40 adverse claimant may serve a notice of adverse claim or related

1 affidavit, order, injunction, or other order contemplated herein at
2 any branch *or office* of the institution located in ~~California~~ *this*
3 *state*.

4 SEC. 14. Section 1620 of the Financial Code is amended to
5 read:

6 1620. Notice to a bank operating a safety deposit department
7 or to a company conducting a safety deposit business of an adverse
8 claim (the person making the adverse claim being hereafter in this
9 section called “adverse claimant”) to any personal property in a
10 safe-deposit box maintained by a bank or company and rented to
11 any person, or to any personal property held by the bank or
12 company in safekeeping or storage for any person shall be
13 disregarded, and the bank or company, notwithstanding such notice,
14 shall permit access to the box to the person to whom it is rented
15 or shall deliver the contents thereof to or on the order of the person
16 or shall deliver the property held in storage or safekeeping to or
17 on the order of the person for whom it is held, without any liability
18 on the part of the bank or company; subject, however, to the
19 exceptions provided in subdivisions (a) and (b) of this section:

20 (a) If an adverse claimant delivers to the bank at the office at
21 which the safe-deposit box is maintained or the property is held
22 his or her affidavit stating that of his or her own knowledge the
23 person in whose name the box stands or for whom the property is
24 held is a fiduciary for the adverse claimant and that he or she has
25 reason to believe that fiduciary is about to misappropriate the
26 contents of the box or the property, and stating the facts upon
27 which the claim of fiduciary relationship and the belief are founded,
28 the bank or company shall refuse access to the safe-deposit box
29 or refuse to deliver the personal property for a period of not more
30 than three court days (including the day of delivery) from the date
31 that the bank or company received the adverse claimant’s affidavit,
32 without liability on its part and without liability for the sufficiency
33 or truth of the facts alleged in the affidavit.

34 (b) If at any time, either before, after, or in the absence of the
35 filing of an affidavit by the adverse claimant, the adverse claimant
36 procures and serves upon the bank or company at the office at
37 which the safe-deposit box is maintained or the property is held a
38 restraining order, injunction, or other appropriate order against the
39 bank or company from a court of competent jurisdiction in an
40 action in which the adverse claimant and all persons in whose

1 names the box stands or for whom the property is held are parties,
2 the bank or company shall comply with that order or injunction,
3 without liability on its part.

4 (c) The provisions of this section shall be applicable even though
5 the name of the person appearing on the bank's or company's
6 books as the renter of the box or as the depositor of the property
7 held in storage or safekeeping is modified by a qualifying or
8 descriptive term such as "agent," "trustee," or other word or phrase
9 indicating that the person may not be the owner in his or her own
10 right of the contents of the box or of the property held in storage
11 or safekeeping.

12 (d) Before giving access to any safe-deposit box, the bank or
13 company may demand payment to it of all costs and expenses of
14 opening the safe-deposit box and all costs and expenses of repairing
15 any damage to the safe-deposit box caused by the opening thereof.

16 (e) Notwithstanding subdivisions (a) and (b), if a central location
17 has been designated by the bank pursuant Section 684.115 of the
18 Code of Civil Procedure for service of legal process, as that term
19 is defined in Section 684.110 of the Code of Civil Procedure, the
20 adverse claimant shall serve a notice of adverse claim or related
21 affidavit, order, injunction, or other order contemplated herein at
22 the central location. If a central location has not but should have
23 been designated by the bank pursuant Section 684.115 of the Code
24 of Civil Procedure for service of legal process, as that term is
25 defined in Section 684.110 of the Code of Civil Procedure, the
26 adverse claimant may serve a notice of adverse claim or related
27 affidavit, order, injunction, or other order contemplated herein at
28 any branch *or office* of the institution located in ~~California~~ *this*
29 *state*.

30 SEC. 15. Section 1755 of the Unemployment Insurance Code
31 is amended to read:

32 1755. (a) If any person or employing unit is delinquent in the
33 payment of any contributions, penalties, or interest provided for
34 in this division, the director may, not later than three years after
35 the payment became delinquent or within 10 years after the last
36 entry of a judgment under Article 5 (commencing with Section
37 1815) or within 10 years after the last recording or filing of a notice
38 of state tax lien under Section 7171 of the Government Code,
39 collect the delinquency or enforce any liens by levy served either
40 personally or by first-class mail, to all persons having in their

1 possession or under their control any credits or personal property
2 belonging to the delinquent person or employing unit, or owing
3 any debts to the person or employing unit at the time of the receipt
4 of the notice of levy or coming into their possession or under their
5 control for the period of one year from the time of receipt of the
6 notice of levy. Any person upon whom a levy has been served
7 having in his or her possession or under his or her control any
8 credits or personal property belonging to the delinquent person or
9 employing unit or owing any debts to the person or employing
10 unit at the time of the receipt of the levy or coming into his or her
11 possession or under his or her control for the period of one year
12 from the time of receipt of the notice of levy, shall surrender the
13 credits or personal property to the director or pay to the director
14 the amount of any debt owing the delinquent employer within five
15 days of service of the levy, and shall surrender the credits or
16 personal property, or the amount of any debt owing to the
17 delinquent employer coming into his or her possession or under
18 his or her control within one year of receipt of the notice of levy
19 within five days of the date of coming into possession or control
20 of the credits or personal property, or the amount of any debt owing
21 to the delinquent employer is incurred. Any person in possession
22 of any credits or personal property or owing any debts to the
23 delinquent person or employing unit who surrenders the credits or
24 personal property or pays the debts owing the delinquent person
25 or employing unit shall be discharged from any obligation or
26 liability to the delinquent person or employing unit with respect
27 to the credits or personal property surrendered or debts paid to the
28 director.

29 (b) (1) If the levy is made on a deposit or credits or personal
30 property in the possession or under the control of a financial
31 institution the notice of levy shall be served on that financial
32 institution at the same location as legal process is required to be
33 served pursuant to Section 684.115 of the Code of Civil Procedure,
34 and the levy will apply to all credits or personal property in the
35 deposit account only at the time that notice of levy is received by
36 the financial institution.

37 (2) For purposes of this section:

38 (A) "Deposit account" has the same meaning as in paragraph
39 (29) of subdivision (a) of Section 9102 of the Commercial Code.

1 (B) “Financial institution” has the same meaning as in Section
2 481.113 of the Code of Civil Procedure.

3 (C) “Legal process” has the same meaning as in Section 482.070
4 of the Code of Civil Procedure.

5 SEC. 16. Section 1755.1 of the Unemployment Insurance Code
6 is amended to read:

7 1755.1. (a) In order to implement Section 1755, the department
8 may serve notice to an address for any financial institution, as
9 defined in Section 481.113 of the Code of Civil Procedure, by
10 means of magnetic media, electronic transmission, or other
11 electronic technology.

12 (b) For purposes of this section, the term “address” shall mean
13 a telephone or modem number, facsimile machine, or any other
14 reference number designated by the financial institution to receive
15 data by electronic means.